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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JANE DOE I, et al.,

Plaintiffs,

vs.

LAKIREDDY BALI REDDY, et al.,

Defendants.

Case No. C 02-5570-WHA

**DEFENDANTS' SUPPLEMENTAL BRIEF  
RE PLEA AGREEMENTS**

Courtroom: 9  
Before: Honorable William H. Alsup

1 A plea agreement contains statements by the defendant entering into it. Those statements,  
 2 like any other made by a party, are admissible at trial against that party as an admission. Fed. R.  
 3 Evid. 801(d).

4 A party's admissions, however, are still hearsay as to *other* parties, unless they qualify  
 5 under another exception. A statement against interest is admissible against others (Rule  
 6 804(b)(3)), but only if the declarant, in this case the pleading party, is unavailable. Fed. R. Evid.  
 7 804(b).)

8 A declarant is unavailable where he is (1) exempted by ruling of the court on the ground  
 9 of privilege; (2) persists in refusing to testify concerning the subject matter of the statement  
 10 despite an order of the court to do so; (3) testifies to a lack of memory of the subject matter of the  
 11 statement; (4) is unable to be present or to testify; or (5) is absent from the hearing and the  
 12 proponent of the statement has been unable to procure the declarant's attendance. Fed. R. Evid.  
 13 804(a). A party proffering hearsay evidence pursuant to the statement against interest exception  
 14 bears the burden of establishing that the declarant is unavailable. *See United States v. Curbello*,  
 15 940 F.2d 1503, 1506-07 (11th Cir. 1991); *Campbell v. Coleman Co.*, 786 F.2d 892, 895-96 (8th  
 16 Cir. 1986).

17 In this case, defendant's plea agreement will be admissible against any other defendant as  
 18 a statement against interest because, as we are presently aware, all of the defendants will be  
 19 available to testify.

20 Dated: April 6, 2004

BISHOP, BARRY, HOWE, HANEY & RYDER

21  
 22 By: /s/  
 23 MICHAEL W. BOLECHOWSKI  
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1 Dated: April 6, 2004

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3 By: \_\_\_\_\_/s/

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5 LAKIREDDY BALI REDDY and

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